

STATE OF MONTANA

JOB DESCRIPTION

Montana state government is an equal opportunity employer. The State shall, upon request, provide reasonable accommodations to otherwise qualified individuals with disabilities.

Job Title: Chief Legal Counsel Position Number: 12001 Location: Helena
Department: Transportation Division and Bureau: Professional Services Division

Job Overview: *Refer to the instructions and training section for more information.*

The Chief Counsel is responsible for leading and managing all aspects of MDT's legal services, civil rights programs, and internal audit programs. The position ensures appropriate and timely legal support for the agency in compliance with professional standards; conducts advanced legal research and analysis to provide legal direction and advice to the Director and Executive Team for the effective administration of department programs; and managing the staff, budget and operations of the MDT Legal Section including the Civil Rights and Internal Audit Units. The position reports to the Director; directly manages nine staff attorneys, one paralegal, one legal secretary, the Civil Rights Supervisor, and the Internal Audit Supervisor; and indirectly manages the staff of the Civil Rights and Internal Audit Units for a total staff size of approximately 38 FTE.

Essential Functions (Major Duties or Responsibilities):

A job usually has three to five major duties. List major duties in order of importance. Refer to the instructions and training section for more information.

Case Management – 35%

Lead and manage all aspects of MDT's legal services to ensure appropriate and timely legal support in compliance with professional standards.

- Structure and manage MDT's internal legal function and staff to ensure the Section has adequate staffing and expertise to meet legal service requirements in a broad range of practice areas. Determine the organizational structure of the Section and duties of staff; establish policies and standards; evaluate work plans, priorities, and procedures; and monitor Section effectiveness through review of legal outcomes, meetings, and consultations.

- Oversee the caseload of the Legal Section by analyzing cases to determine legal issues and the agency response, assigning cases to attorneys, and making calendar assignments to ensure proper staffing and compliance with legal deadlines. Review incoming cases to determine appropriate case assignment taking into consideration the experience and skill of the attorney, assign teams to handle complex projects, and consult with attorneys on a regular basis to determine case progress and quality of the attorney's performance on the case and to reassign projects as necessary.
- Serve as a consultant to legal staff to provide guidance on decisions relating to case strategy or issues having political or operational impacts. Inform the Director and Governor's Office of high profile cases, recent decisions affecting the agency, or other case-related matters, and coordinate responses to inquiries regarding cases. Coordinate with Division Administrators and other executives to resolve or mitigate the operational impacts of legal issues (e.g., project delays).
- Evaluate case files including legal filings, claims, condemnations, human resource issues, requests for opinions, litigation, and other activities of Section lawyers to ensure they comply with legal strategies, determine the need for additional involvement, determine if all avenues of resolution of been explored, and to make final decisions on settlements and negotiations exceeding attorney's delegated authority (e.g., cases in excess of \$50,000 or those setting precedent). Provide advice and guidance to attorneys on settlement negotiations, hearings, and trials including attendance as needed.
- Work in conjunction with MDT Information Technology and Legal staff to establish, maintain and evaluate automated case management systems, secure file sharing, and other management systems to monitor case assignments, ensure document retention and security, and to maintain caseload statistics for budget and planning purposes. Monitor caseloads and case progress by evaluating system reports; ensure legal and internal deadlines are met; ensure staff manage documents and records (e.g., motions, briefs, pleadings, etc.); and ensure the proper allocation of legal expenses to programs and federal reimbursement where appropriate.
- Conduct staff meetings, disseminate data, and promote information exchange for support and advancement of Section and department goals. Guide staff in identifying and developing strategic responses to recurrent systemic issues and develop protocols for maintaining ethical and professional standards for client interactions, record keeping, negotiations, etc.
- Serve as a member of the Executive Team to provide legal expertise on operational and administrative issues, participate in agency-wide planning efforts, provide updates on cases and legal issues affecting the department, and to determine how the Legal Section can support strategic objectives.
- Conduct ongoing research and analysis to keep apprised of developments in MDT program areas and relevant law to provide information and training to Legal Section staff. Review legal publications and distribute information that pertains to MDT legal staff and executives as appropriate.

Legal Counsel – 30%

Conduct advanced legal research and analysis of state and federal administrative rules, statutory and case law, practices of other states and countries, public concerns, and related issues to provide legal direction and advice to the Director and Executive Team for the effective administration of department programs.

- Participate in the development and implementation of MDT legislative objectives and provide legal guidance and advice in the representation of the department with the legislature, congress, tribal governments, and other policymakers. This involves evaluating all proposed legislation affecting the department, formulating legislative proposals, establishing systems and processes to track legislative issues, drafting or reviewing legislation on behalf of the MDT, serving as the primary lobbyist for the MDT to represent the agency before committees and legislators, and providing advice and counsel to the director and administrators on hearings and other legislative interactions. Anticipate issues at the state and federal levels to coordinate agency responses and to ensure state law conforms with federal regulations.
- Research, analyze, and prepare legal opinions on matters that affect the MDT or Transportation Commission. Advise on issues including eminent domain, real estate, contracts, outdoor advertising control, rail and transit, motor fuels tax, motor carrier services, administrative law, environmental review and litigation, legislation, collection of accounts receivable for damage to MDT property, labor/employment, and administrative issues as requested and in a timely manner to ensure the efficient and legally sound operation of the agency.
- Provide legal advice and analysis to the director, division administrators, district administrators, and other agency staff as appropriate on the transportation, administrative, and legislative policies of the agency. This advice and consultation is on the administration of operations involving federal, state, and tribal administrative, statutory, regulatory, and constitutional requirements and restrictions. Serve as agency lead for negotiating cost-sharing agreements with tribal governments.
- Review contracts, memoranda of understanding, and other agreements entered into by the MDT to ensure they are legally appropriate, representation of the State's interests, and compliance with MDT and federal contract requirements. Participate as the department's legal spokesperson in the negotiation of legally complex contracts on significant issues with state, federal and private entities.
- Advise and represent the department on transactions (e.g., condemnations, land transfers, contractor claims, etc.) including working with department agents, affected districts and divisions, private parties, other state and federal agencies, and advising the director and commission.
- Participate in the definition and development of MDT policies, procedures and programs and provide continuing counsel and guidance on legal matters and on legal implications of all matters. Serve as key lawyer/legal advisor on all major transactions and cases including state and federal court cases filed against or on behalf of the MDT, and work with the appropriate executive(s) to define a strategic defense.
- Represent the department before state and federal administrative agencies in legal matters, including both contested and non-contested cases, by advocating for and defending the agency's policies and legal positions. Provide legal advice and participation in negotiation and settlement on behalf of the MDT. Conveys information regarding strengths and weaknesses of the case to administrator or the director, reviews settlement documents, and negotiates the resolution of cases. Coordinates with the Risk Management and Tort Defense Division and Department of Administration Director to resolve tort claims or other claims for money damages against MDT and/or state employees. Participates in settlement conferences and mediations as needed.
- Establish and maintain effective relationships with the Governor's Office, other executive branch agencies, and the legislative branch to ensure the MDT legal activities and objectives align with

executive strategies and legislative intent. Attend statewide Chief Counsel meetings to ensure understanding and implementation of the Governor's policy.

Staff Management – 30%

Manage the staff, budget and operations of the MDT Legal Section including the Civil Rights and Internal Audit Units to meet agency legal needs and maintain a high level of credibility as effective and responsive team members.

- Identify staffing needs, recruit and hire employees, and allocate human resources to adequately support the ongoing operations and activities of the Legal Section including the Civil Rights and Internal Audit Units. Comply with state and federal employment and civil rights laws throughout the hiring process, participate on screening and selection committees, review results and recommendations for hiring, and ensure the proper training and orientation of new employees.
- Develop and allocate the Section budget to ensure adequate financial support for operational plans. Monitor and review monthly expenditures; develop program budget proposals and amendments; forecast additional funds needed for training, travel, contract services, and other Section expenses; evaluate project/program priorities; and write related reports to ensure adequate funding for attainment of objectives and to report accomplishments and expenditures.
- Manage the Internal Audit Unit to maintain an effective and professional internal and external audit function for MDT. This includes establishing goals and objectives, reviewing and approving audit guidelines and policy, and determining the organizational structure and overall work plan for audit operations. Exercise policy direction and oversee the internal audit supervisor by reviewing and approving the annual audit plan, determining general audit priorities and resources needed to meet the audit plan, and allocating financial resources to meet legal and operational Guidelines for the Department. Oversee the provision of periodic status reports to MDT Audit Committee and the preparation of an annual report showing the accomplishments of the unit.
- Manage the Civil Rights Unit and MDT's civil rights and civil rights related human resources functions, in addition to seven federal programs. Oversee the department's external Civil Rights Programs (Department's Civil Rights/Contract Compliance Programs (23 CFR 230, Subpart C, Appendix A, Part I); Disadvantaged Business Enterprise (DBE) Program and supportive services; Title VI including environmental justice, Americans with Disabilities Act (ADA), On-the-Job Training Program; and the Contractor's Equal Employment Opportunity Compliance Program.). This involves assessing the long-range goals, fiscal limitations, staff training, economic impacts, and other factors for each program; developing plans and program objectives to ensure that MDT remains current with federal and other national standards; developing implementation plans for new programs and approaches in the civil rights field; overseeing and ensuring the development and implementation of all civil rights-related policies, procedures, and standards; managing the Civil Rights Budget and monitoring program compliance.
- Oversee the selection, retention, management and evaluation of all contracts with outside counsel, expert witnesses, appraisers, court reporters, mediators, private investigators and other professionals to ensure appropriate support for legal activities in compliance with contract and procurement law and procedures.

- Determine the training needs of staff through analysis of current and anticipated areas of law handled by the Section; legal professional standards including continuing education requirements; developments and needs in the civil rights and internal audit programs; and staff performance. Prepare, present, and/or coordinate training for Section staff through on the job training, conference attendance, or formal educational opportunities to ensure staff competency.
- Evaluate the performance of direct reports and complete performance appraisals to manage and document performance. Oversee performance management conducted by subordinate supervisors and ensure Section staff members received clear objectives and workplace standards, effective coaching and mentoring, and accountability. Implement and monitor corrective action plans including discipline and termination. Enforce disciplinary policies to ensure consistency in the application of disciplinary actions. Resolve grievances at the lowest level whenever possible.
- To the extent possible within available technology resources, coordinate the administration, and maintenance of internal information systems to ensure the accuracy of data and to ensure systems support agency legal, civil rights, and internal audit operations (e.g., case management software, automated legal reporting and tracking systems, agency subscriptions to computer-assisted legal research, business research, audit tracking systems, and risk management services, etc.).
- Monitor internal and external customer satisfaction with services provided by Legal, Internal Audit, and Civil Rights staff. Maintain contact with customers to ensure that Section staff's legal work fulfills ethical and professional standards, and that staff provide high quality legal services to all clients.

Other Duties as Assigned – 5%

Perform a variety of other duties as assigned by the Director in support of the department mission and objectives including providing backup for other executives and Legal Section staff; participating in ongoing training and educational programs; and related duties as assigned.

Supervision

If this incumbent supervises others, please list each employee supervised and the position number:

The number of employees supervised is: 12

The position number for each supervised employee is: 14010, 70004, 70005, 70007, 70009, 70010, 70011, 80029, 12002, 12003, 14012, 15001

Physical and Environmental Demands:

List physical aspects of the job, including frequency and duration, and environmental factors an incumbent can expect in this position. You may also access the State of Montana Safety Program, the Return to Work Program, and other Resources. Duties are performed in a typical office environment.

Knowledge, Skills and Abilities (Behaviors):

List the knowledge, skills and abilities (behaviors) typically required for the first day of work. You may also list preferred knowledge, skills and abilities.

This position requires knowledge of the concepts, theories, principles and practices of the law including transportation, eminent domain, real estate, contracts, outdoor advertising control, rail and transit, taxation, regulatory and law enforcement, administrative law, environmental review and litigation, legislation, collections, property and liability, and labor/employment. The position requires knowledge of state and federal rules of civil procedure, evidence, appellate procedure; the legislative process; the Montana Administrative Procedure Act; Montana Operations Manual, and Rules of Professional Ethics. Thorough knowledge of torts, employment law, personnel law, civil rights, constitutional law, contract principles, and Montana state and local government structure.

Requires skill leadership; the use of personal computer and standard office equipment; advocacy; legal research; communicating effectively verbally and in writing; organizing and synthesizing complex materials for presentation; prioritizing workload; meeting deadlines; maintaining effective working relationships with employees, other agencies, and the public; dealing with confidential and sensitive material; and in mentoring and supervising attorneys and legal staff.

Minimum Qualifications (Education and Experience):

List the required education and experience required for the first day of work, including alternative methods of acquiring minimum qualifications

Requires a Juris Doctorate Degree from an accredited law school, membership in the State Bar of Montana, and six (6) or more years experience including supervisory experience. Admission to Montana Courts, U.S. District Courts and Ninth Circuit Court of Appeals. State government legal experience is preferred.

Alternative qualifications include: None

Special Requirements:

List any other special required information for this position

- | | |
|------------------------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Fingerprint check | <input checked="" type="checkbox"/> Valid driver's license |
| <input checked="" type="checkbox"/> Background check | <input type="checkbox"/> Other; Describe |
| None Union Code | Safety Responsibilities |

The specific statements shown in each section of this description are not intended to be all inclusive. They represent typical elements and criteria considered necessary to perform the job successfully.

Signatures

My signature below indicates the statements in the job description are accurate and complete.

Immediate Supervisor	Title	Date
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Administrative Review	Title	Date
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My signature below indicates that I have read this job description.

Employee	Title	Date
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Human Resources Review

Job Code Title: Lawyer Job Code Number: 231118

Pay Band: 8

My signature below indicates that Human Resources has reviewed this job description for completeness and has made the following determinations:

☒ FLSA Exempt

☐ FLSA Non-Exempt

☐ Telework Available

☒ Telework Not Available

☒ Classification Complete

☐ Organizational Chart attached

Human Resources:

Signature

Title

Date